

LABOUR DEPARTMENT

The 21st October, 1985

No. 9/5/84-6Lab./8490.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Faridabad in respect of the dispute between the workman and the management of M/s. (i) M.D., Haryana Tourism Corporation, Chandigarh, (ii) Manager, Haryana Tourism Corporation, Kothi No. 1220, Sector 15, NIT, Faridabad :—

IN THE COURT OF SHRI R.N. SINGAL, PRESIDING OFFICER, LABOUR COURT,
FARIDABAD

Reference No. 201 of 84

between

SHRI AMAN SINGH, WORKMAN AND THE RESPONDENT-MANAGEMENT OF M/S. (I) M.D., HARYANA TOURISM CORPORATION, CHANDIGARH; (II) MANAGER, HARYANA TOURISM CORPORATION, KOTHI NO. 1220, SECTOR 15, NIT, FARIDABAD.

Present:—

Shri R. L. Sharma for the workman.

Shri J. S. Saroha for the respondent management.

AWARD

This industrial dispute between the workman Shri Aman Singh and the respondent-management of M/s. M.D., Haryana Tourism Corporation, Chandigarh; (ii) Manager, Haryana Tourism Corporation, Kothi No. 1220, Sector 15, NIT, Faridabad has been referred to this Court by the Hon'ble Governor of Haryana,—vide his order No. ID/FD/2/23/84/26985-91, dated 30th July, 1984 under Section 10(i)(c) of the Industrial Disputes Act, 1947 for adjudication. The terms of the reference are:—

Whether the termination of services of Shri Aman Singh was justified and in order? If not, to what relief is he entitled?

According to the demand notice, the claimant was appointed on 3rd December, 1981 and his services were illegally terminated on 10th October, 1983. He has claimed reinstatement with continuity of service and with full back wages.

This claim has been contested by the management. It is contended that the claimant was offered a purely temporary appointment on *ad hoc* basis as work-charged Lab. Attendant,—vide letter dated 3rd November, 1981 for construction of Hotel Raj Hans. The claimant remained absent on 24th September, 1983. Hence letter of termination was issued. He was given 10 days notice. He was also offered retrenchment compensation. It is further contended that the services of the claimant were terminated in accordance with agreed terms of appointment.

The reference was contested on the following issues:—

1. As per reference?

I have heard the representatives of both the parties and gone through the evidence on record. My findings on the issue are as under:—

Issue No. I:

The respondent-management has examined MW-1 Sh. Jagdish Mittar. He has stated that the claimant remained absent till 10th October, 1983. He did not join in spite of notice. He left the services according to terms and conditions of appointment letter. The work on which he was appointed was of temporary nature. No such work is pending now. No such person has been appointed now in that capacity so far. In view of the statement it is contended that the work was of temporary nature and after completion of work no new person has been appointed. Reliance has been placed on the appointment letter that post is temporary for one year only. Letter of termination is Ex. M-5. The workman himself has admitted that he did not apply for leave after 20th September, 1983 to 22nd September, 1983 and from 24th September 1983 to onwards. He has also admitted the appointment letter which is Ex. M-1. Relying on this document it is contended that the post was purely temporary and it was ended after the completion of work and no reinstatement can be granted and there was no post of Lab. Assistant. Reliance is placed on the judgment of Madras High Court in Crompton Engineering Co. *Versus* Presiding Officer, 1975-LIC page 1006. It is held that the employment automatically came to an end on the expiry of such period or after the work was over. The question of reinstatement does not arise. It is held

that his job came to an end when the work was over. It has been held by the Hon'ble Supreme Court in *F.R. Jesuratnam Versus Union of India and others*; LLJ-II-1981 page 195 that the post of Monograph was created for one year only; with the death of the professor the project was dropped and finally closed. The period for which the appellant's post was created has also expired. In these circumstances the relief of reinstatement cannot be granted.

In view of the above said judgment the relief of reinstatement cannot be granted to the workman as the job on which the workman was appointed was of temporary nature and the work was finished and there was no Lab. Assistant appointed in his place. Hence the workman is not entitled to any relief. The award is given accordingly.

R. N. SINGAL,

Dated 4th September, 1985.

Presiding Officer,
Labour Court, Faridabad.

Endst. No. 2880, dated 27th September, 1985

Forwarded (four Copies) to the Commissioner & Secretary to Government, Haryana, Labour & Employment Department, Chandigarh as required under Section 15 of the Industrial Disputes Act, 1947.

R. N. SINGAL,

Presiding Officer,
Labour Court, Faridabad.

The 4th October, 1985.

No. 9/5/84-6Lab./8149.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala in respect of the dispute between the workman and the management of the State Transport Commissioner, Haryana, Chandigarh and the General Manager, Haryana Roadways, Kaithal (Haryana) :—

IN THE COURT OF SHRI V.P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT,
AMBALA

Reference No. 24 of 1985

SHRI BALBIR SINGH WORKMAN AND THE MANAGEMENT OF THE STATE TRANSPORT
COMMISSIONER, HARYANA, CHANDIGARH AND THE GENERAL MANAGER, HARYANA
ROADWAYS, KAITHAL (HARYANA)

Present:—

Shri Rajeshwar Nath for workman.
Shri A.R. Goyal for respondent.

AWARD

The Hon'ble Governor of Haryana in the exercise of powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947 referred the dispute between Shri Balbir Singh workman and the management of the State Transport Commissioner, Haryana and the General Manager, Haryana Roadways, Kaithal. The terms of the reference are as under:—

Whether the termination of services of Shri Balbir Singh, workman, was justified and in order? If not, to what relief is he entitled to?

Workman Balbir Singh has urged through demand notice that he was employed by the respondent as Chowkidar. On 27th May, 1980, he remained in the service of respondent management upto 30th June, 1983; thereafter his services were terminated without any notice and without making payment of any retrenchment compensation when even juniors to him are still in the service of the respondent. He has prayed for re-instatement with continuity in service with full back wages etc.

Respondent-management has refuted the claim of the workman but however it was contended that workman had been employed on daily wages, his services were likely to be terminated on the recruitment of regular Chowkidar through the Employment Exchange, when regular candidates were recruited on that account service of the present applicant was terminated. He is not at all entitled to relief claimed for.

On the pleadings of the parties the following issues have been framed:—

Issue No. 1:

Whether termination order dated 30th June, 1983 is justified if not, its effect ? OPM

Issue No. 2:

Relief.

I have heard both the authorised representatives of the parties and have gone through the evidence minutely which is available on the file. My issue-wise findings are as under :—

Issue No. 1:

In support of this issue management examined Shri Om Parkash Clerk as MW-1, he deposed that on the arrival of regular candidates services of workman Shri Balbir Singh were terminated. In cross-examination he could not afford to deny that prior to termination of services of workman, no notice pay in lieu of notice period and retrenchment compensation were paid to the workman.

Shri Balbir Singh as AW-1 has re-affirmed his claim on oath while coming in the witness box.

Without going in much details the admission of MW-1 can be safely relied upon, similar observations have been made in AIR-1960-SC-1001.

Since the workman worked in the service of respondent more than 240 days before termination of services of the applicant, no notice, no pay in lieu of notice pay and no retrenchment compensation was paid to workman, so the violation of section 25(f) of the Industrial Disputes Act, 1947 has been clearly established. Accordingly the order of termination of services of respondent dated 30th June, 1983 is illegal and unjust and not binding on the workman. Workman is entitled to re-instatement with continuity in service and with full back wages, so this issue is decided in negative.

Issue No. 2:

For the fore-going reason on the basis of my findings on issue No. 1, I order that workman be re-instated with continuity in service and with full back wages. I pass my award regarding the dispute in hand accordingly.

Dated 12th August, 1985.

V. P. CHAUDHARY,
Presiding Officer,
Labour Court, Ambala.

Endst. No. 1864, dated Ambala City, the 13th August, 1985.

Forwarded (four copies) to the Financial Commissioner and Secretary to Government, Haryana, Labour & Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

V. P. CHAUDHARY,
Presiding Officer,
Labour Court, Ambala.

The 24th October, 1985

No. 9/5/84-5Lab./3703.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala in respect of the dispute between the workman and the management of the State Transport Commissioner, Haryana and the General Manager, Haryana Roadways, Kaithal.

IN THE COURT OF SHRI V. P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT, AMBALA

Reference No. 99 of 1984

SHRI MANGAT RAM WORKMAN AND THE MANAGEMENT OF THE STATE TRANSPORT COMMISSIONER, HARYANA AND THE GENERAL MANAGER, HARYANA ROADWAYS, KAITHAL.

Present.—Shri Rajeshwar Nath, for workman.
Shri A. R. Goyal, for respondent.

AWARD

The Hon'ble Governor of Haryana in the exercise of powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947 referred the dispute between Shri Mangat Ram workman and the management of the State Transport Commissioner, Haryana and the General Manager, Haryana Roadways Kaithal. The terms of the reference are as under:—

Whether the termination of services of Shri Mangat Ram, workman, was justified and in order? If not, to what relief is he entitled to?

Workman Mangat Ram has challenged the respondent-management alleging that he joined the services of the respondent as ticket verifier on 15th May, 1980 on daily wages Deputy Commissioner's rates. His services were terminated on 20th April, 1984 violating the provisions of section 25(f) of the Industrial Disputes Act, 1947. Many junior persons namely Bhagirath, Inder Singh, Dharam Pal etc. are still in service. He has prayed for the relief of re-instatement with continuity in service and with full back wages.

Respondent management contended that the services of Shri Mangat Ram workman were discontinued being no longer required because he was a contingent paid employee and was not regular employee of respondent, so provision of section 25(f) of the I.D. Act, 1947 cannot be attracted in this case.

Workman through his replication contested the stand taken by the respondent management and supplied his claim statement.

On the pleadings of the parties the following issues were framed:—

Issues

1. Whether termination order dated 20th April, 1984 regarding the services of applicant is according to law; if not, its effect? OPR.
2. Relief.

I have heard authorised representatives of the parties and have carefully gone through the evidence available on the file. My issue-wise findings are as under:—

Issue No. 1:

In support of this issue management examined Shri Kesar Das Clerk as MW-1. He stated that applicant joined service of the respondent on 1st April, 1982. His services were terminated on 19th April, 1984. Since his appointment was only for 19th April, 1984. In cross-examination he frankly admitted that no notice for discontinuing the services of workman was issued to workman, no pay in lieu of notice period was given to him and no retrenchment compensation was paid to him. The another important fact which has figured in his statement is that he could not afford to deny that certain juniors to workman Mangat Ram, namely Bhagirath, Gautam, Inder Singh and Dharampal are not in service of respondent-management.

Shri Mangat Ram workman has supported his case on oath as detailed in claim statement and re-produced above.

In view of statement of MW-1 the violation of section 25(f) of the Industrial Disputes Act, 1947 stands proved. If a workman has service of 240 days may not be continuous and then at the time of discontinuing or terminating the services of particular workman notice should be given. Retrenchment compensation shall be paid and appropriate authority shall have to be informed. But in this case no such formalities were observed, so the order of termination dated 30th April, 1982 is set aside being illegal and unjust and this issue is decided in the negative.

Issue No. 2

In view of my findings on issue No. 1 workman Mangat Ram is entitled to re-instatement with continuity in service and with full back wages. I pass my award regarding the dispute in question accordingly.

Dated 12th August, 1985.

V. P. CHAUDHARY,
Presiding Officer,
Labour Court, Ambala.

Endst. No. 1861, dated Ambala City, the 13th August, 1985.

Forwarded (four copies) to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

V. P. CHAUDHARY,
Presiding Officer,
Labour Court, Ambala.